

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUL 14 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Rulemaking to Amend Parts 1, 2, 21, and 25	)	CC Docket No. 92-297
Of the Commission's Rules to Redesignate	)	
The 27.5-29.5 GHz Frequency Band, to	)	
Reallocate the 29.5-30.0 GHz Frequency	)	
Band, To Establish Rules and Policies for	)	
Local Multipoint Distribution Service	)	
And for Fixed Satellite Services	)	
	)	
Petitions for Reconsideration of the Denial	)	
of Applications for Waiver of the	)	
Commission's Common Carrier Point-to-	)	
Point Microwave Radio Service Rules	)	
	)	
Suite 12 Group Petition	)	PP-22
for Pioneer Preference	)	

**REPLY COMMENTS OF LBC COMMUNICATIONS, INC. TO  
CONSOLIDATED OPPOSITION OF CELLULARVISION USA, INC.**

LBC Communications, Inc. ("LBC"), hereby submits these reply comments to the Consolidated Opposition of CellularVision USA, Inc. ("CellularVision") to Petitions for Reconsideration (the "Opposition") filed in the above-captioned proceeding. In its Opposition, CellularVision requests that the Commission adopt the proposal of WebCel Communications, Inc. ("WebCel") to create a "very small business" designated entity category for LMDS only if the adoption of such proposal does not impact current bidding credits for small businesses and entities with revenues between \$40 and \$75 million.<sup>1</sup> For the reasons stated below, LBC believes that adoption of WebCel's proposal is essential if the Commission is to realize the overriding objective of this proceeding: the creation of competition to incumbent cable and telephony interests.

<sup>1</sup> Opposition of CellularVision at 9-10.

The Commission has relied in the past on the existence of a “very small business” category to ensure the participation of truly start-up, entrepreneurial companies in other wireless service auctions, including the F block PCS auction, the WCS auction, and the 800 and 900 MHz SMR auctions. Notwithstanding the justifiable reliance on this important category in the past, the Commission — inexplicably — failed to make use of the “very small business” category in its LMDS auction rules.

Failure to do so, as WebCel demonstrates at length in its Petition for Partial Reconsideration in this proceeding, will place truly small entities at a disadvantage *vis-a-vis* entities that technically qualify as “small businesses,” but, in reality, have asset values in the hundreds of millions of dollars.<sup>2</sup> In short, the absence of a “very small business” category will make it difficult for truly small companies with higher costs of capital to compete for limited financing: All else being equal, companies with higher asset values will attract the limited financing available for LMDS. Such a result will preclude true entrepreneurs, like LBC, from obtaining licenses and providing competitive, innovative services. Such a result would contravene Congress’ intent to disseminate licenses to entrepreneurs when it gave the Commission auction authority.<sup>3</sup>

To safeguard truly small companies’ access to capital — and their ability to participate in the provision of LMDS services — the Commission should adopt expeditiously WebCel’s proposal regarding the creation of a “very small business” category for LMDS. Specifically, the Commission should:

- adopt for LMDS the “very small business” designated entity category used for the PCS F block auction for firms with average revenue of less than \$15 million over the previous three years. Firms in this category should receive a higher bidding credit — 35% — than entities in the small business category;

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<sup>2</sup> Petition for Partial Reconsideration of WebCel at 5-8.

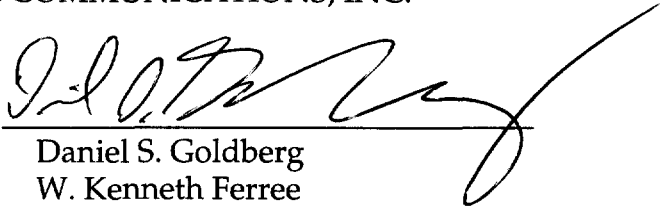
<sup>3</sup> See, e.g., 47 U.S.C. § 309(j)(4)(D).

- provide for installment payments for "very small businesses" at a rate equal to the rate for ten year Treasury obligations; and,
- impose a "financial eligibility threshold" on designated entity status similar to that adopted for the PCS C and F block auctions, which barred firms from participating in the entrepreneur's block that had total assets in excess of \$500 million.

Creation of a "very small business" category in the manner described above will ensure that truly small businesses and entrepreneurs can participate in the LMDS auction on an equal footing with other prospective licensees. This, in turn, will go a long way toward realizing LMDS' promise of introducing long-overdue competition to the video and telephony marketplace.

Respectfully submitted,

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July 14, 1997

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply Comments of LBC Communications, Inc. to consolidated Opposition of CellularVision USA, Inc. was sent by first-class mail, postage prepaid, this 14th day of July, 1997, to each of the following:

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